

**AN ORDINANCE BY
FINANCE EXECUTIVE COMMITTEE**

AN ORDINANCE AMENDING CHAPTER 114, ARTICLE VI, DIVISION 4, OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA ENTITLED "SUBSTANCE ABUSE POLICY" AS IT PERTAINS TO SWORN EMPLOYEES OF THE DEPARTMENTS OF POLICE, FIRE AND RESCUE, CORRECTIONS, AS WELL AS ALL OTHER EMPLOYEES OF THE VARIOUS DEPARTMENTS OF THE CITY OF ATLANTA WHO HOLD POSITIONS DESIGNATED BY THE COMMISSIONER OF THE DEPARTMENT OF HUMAN RESOURCES AS BEING SAFETY-SENSITIVE; TO AUTHORIZE THE COMMISSIONER OF THE DEPARTMENT OF HUMAN RESOURCES TO DESIGNATE CERTAIN EMPLOYMENT CLASSIFICATIONS AS BEING SAFETY-SENSITIVE IN ACCORDANCE WITH APPLICABLE LAW, RULES, AND REGULATIONS, FOR THE PURPOSE OF RANDOM DRUG TESTING; AND FOR OTHER PURPOSES.

WHEREAS, Chapter 114, Article VI, Division 4 of the Code of Ordinances of the City of Atlanta, Georgia generally applies to all employees of the City of Atlanta; and

WHEREAS, the aforesaid division does not include a provision concerning safety-sensitive positions; and

WHEREAS, in order to effectively reduce the danger to the public as well as to other employees from drug or alcohol abuse among employees whose classifications affect safety and/or security, the Commissioner of the Department of Human Resources requires the authority to designate such employment classifications as safety-sensitive in accordance with applicable law, rules, and regulations; and

WHEREAS, Chapter 114, Article VI, Division 4, Section 114-571 of the Code of Ordinances of the City of Atlanta, Georgia sets out the administrative process a supervisor must take when there is reasonable suspicion that an employee is under the influence of drugs or alcohol; and

WHEREAS, the aforesaid section only authorizes a supervisor to require an employee to submit to a drug and/or alcohol analysis when there is reasonable suspicion that an employee is under the influence of drugs or alcohol; and

WHEREAS, Chapter 114, Article VI, Division 4, Section 114-572(a) of the Code of Ordinances of the City of Atlanta, Georgia sets out the administrative process that the City of Atlanta must follow when directing an employee to submit to a drug and/or alcohol analysis test; and

WHEREAS, the aforesaid ordinance does not provide for the random drug testing of sworn employees of the Departments of Police, Fire and Rescue, Corrections, as well as all other employees of the various departments of the City of Atlanta who hold positions which have been

designated by the Commissioner of the Department of Human Resources as being safety-sensitive in accordance with Chapter 114, Article VI, Division 4, Section 114-575 as amended; and

WHEREAS, the activities of police officers, firefighters, corrections officers, and all other employees of the various departments of the City of Atlanta who hold positions which have been designated by the Commissioner of the Department of Human Resources as being safety-sensitive, are such that drug or alcohol abuse among these employees would pose a high risk of danger to the public and fellow employees; and

WHEREAS, the City Council desires to implement a random drug testing policy for sworn employees of the Departments of Police, Fire and Rescue, Corrections and all other employees of the various departments of the City of Atlanta who hold positions which have been designated by the Commissioner of the Department of Human Resources as being safety-sensitive.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS
as follows:

Section 1: That Chapter 114, Article VI, Division 4, Section 114-571 of the Code of Ordinances of the City of Atlanta, Georgia which currently reads:

Section. 114-571. Supervisors' responsibilities and guidelines.

- (a) Supervisors are responsible for consistent enforcement of this division. Any supervisor who knowingly permits a violation of this division by employees under the supervisor's direct supervision shall be subject to disciplinary action.
- (b) When a supervisor has reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol, the supervisor must immediately notify the appointing authority or designee. The appointing authority or designee shall advise the employee of right of representation and allow the employee the opportunity to explain the employee's behavior. The appointing authority or designee may require the employee to submit to a drug and/or alcohol analysis.
- (c) Reasonable suspicion must be based on specific, objective facts about the conduct of an individual that would lead the reasonable person to suspect that the individual is or has been using drugs. Observations which may constitute a factual basis for determining reasonable suspicion may include but are not limited to the following, alone or in combination:
 - (1) Slurred speech.
 - (2) Alcohol on breath.
 - (3) Inability to walk a straight line.
 - (4) Any accident involving city property when the following elements are present:
 - a. Vehicular accidents involving city employees who are cited for traffic code violations.

- b. Other accidents involving city property in conjunction with additional behavior as outlined in this subsection.
- (5) Behavior which is so unusual and inappropriate in its nature as to create an unsafe work environment or disrupt the normal working condition.
- (6) Possession of alcohol and/or illegal drugs.

be hereby amended to read as follows:

Section. 114-571. Supervisors' responsibilities and guidelines.

- (a) Supervisors are responsible for consistent enforcement of this division. Any supervisor who knowingly permits a violation of this division by employees under the supervisor's direct supervision shall be subject to disciplinary action.

(b) Reasonable Suspicion

- (1) When a supervisor has reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol, the supervisor must immediately notify the appointing authority or designee. The appointing authority or designee shall advise the employee of right of representation and allow the employee the opportunity to explain the employee's behavior. The appointing authority or designee may require the employee to submit to a drug and/or alcohol analysis.
- (2) Reasonable suspicion must be based on specific, objective facts about the conduct of an individual that would lead the reasonable person to suspect that the individual is or has been using drugs. Observations which may constitute a factual basis for determining reasonable suspicion may include but are not limited to the following, alone or in combination:
 - (i) Slurred speech.
 - (ii) Alcohol on breath.
 - (iii) Inability to walk a straight line.
 - (iv) Any accident involving city property when the following elements are present:
 - a. Vehicular accidents involving city employees who are cited for traffic code violations.
 - b. Other accidents involving city property in conjunction with additional behavior as outlined in this subsection.
 - (v) Behavior which is so unusual and inappropriate in its nature as to create an unsafe work environment or disrupt the normal working condition.
 - (vi) Possession of alcohol and/or illegal drugs.

(c) Random Drug-Testing

- (1) Sworn employees of the Departments of Police, Fire, and Rescue, Corrections as well as all other employees of the various departments of the City of Atlanta who hold positions which have been designated by the Commissioner of the Department of Human Resources as being safety-sensitive in accordance with Section 114-575, are subject to random drug and/or alcohol analyses as established by the subject employees' respective departments, when directed by the appointing authority.
- (2) The Commissioner of the Department of Human Resources may designate certain employment classifications which affect safety and/or security as safety-sensitive positions in accordance with applicable law, rules, and regulations.

Section 2: That Chapter 114, Article VI, Division 4, Section 114-572(a), of the Code of Ordinances of the City of Atlanta, which reads:

Section 114-572. Drug and/or alcohol analysis.

- (a) When directed by the appointing authority or designee, an employee must submit to a drug and/or alcohol analysis test. The direction to submit to the drug/alcohol test must be in writing, signed by the appointing authority or designee, in accordance with section 114-571(c). A blood or urinalysis test may be given. All testing labs, utilized by the city to analyze specimens, shall be certified to do so in accordance with applicable state and federal law and guidelines.

be hereby amended to read as follows:

Section 114-572. Drug and/or alcohol analysis.

- (a) When directed by the appointing authority or designee, an employee must submit to a drug and/or alcohol analysis test. The direction to submit to the drug/alcohol test must be in writing, signed by the appointing authority or designee, in accordance with section 114-571 **(b) or (c). The method of testing shall be established by the Commissioner of the Department of Human Resources.** All testing labs, utilized by the city to analyze specimens, shall be certified to do so in accordance with applicable state and federal law and guidelines.

Section 3: That all ordinances or parts of ordinances that are in conflict with the provisions of this ordinance are waived to the extent of the conflict.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison: Amber A. Robinson

Contact Number: (404) 330-6494

Originating Department: Department of Law

Committee(s) of Purview: Finance/Executive

Anticipated Committee Meeting Date(s): April 2, 2008

Anticipated Full Council Date: April 21, 2008

Legislative Counsel's Signature: 

Commissioner Signature: _____

Chief Procurement Officer Signature: N/A

CAPTION

AN ORDINANCE AMENDING CHAPTER 114, ARTICLE VI, DIVISION 4, OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA ENTITLED "SUBSTANCE ABUSE POLICY" AS IT PERTAINS TO SWORN EMPLOYEES OF THE DEPARTMENTS OF POLICE, FIRE AND RESCUE, CORRECTIONS, AS WELL AS ALL OTHER EMPLOYEES OF THE VARIOUS DEPARTMENTS OF THE CITY OF ATLANTA WHO HOLD POSITIONS DESIGNATED BY THE COMMISSIONER OF THE DEPARTMENT OF HUMAN RESOURCES AS BEING SAFETY-SENSITIVE; TO AUTHORIZE THE COMMISSIONER OF THE DEPARTMENT OF HUMAN RESOURCES TO DESIGNATE CERTAIN EMPLOYMENT CLASSIFICATIONS AS BEING SAFETY-SENSITIVE IN ACCORDANCE WITH APPLICABLE LAW, RULES, AND REGULATIONS, FOR THE PURPOSE OF RANDOM DRUG TESTING; AND FOR OTHER PURPOSES.

Mayor's Staff Only

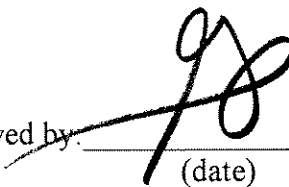
Received by CPO: _____
(date)

Received by LC from CPO: _____
(date)

Received by Mayor's Office:

3.17.08
(date)

Reviewed by:


(date)

Submitted to Council:

(date)